REMARKS

The Applicant is filing this Response and Amendment in response to an Office Action dated September 21, 2005. At the time of the Office Action, claims 1-20 were pending. In this Amendment and Response, claims 1, 4, 5, 9, 12, 13, and 17-19 are being amended and claims 2, 3, 10, 11 are being canceled. No new claims are added. Accordingly, claims 1, 4-9, and 12-20 are currently pending. The Applicant respectfully requests reconsideration of the rejections and allowance of the pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-20 under U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,223,287 to Douglas ("the Douglas reference"). Applicants respectfully traverse this rejection.

Anticipation under Section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 227 U.S.P.Q. 773 (Fed. Cir. 1985). Thus, for a prior art reference to anticipate under Section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Moreover, the prior art reference also must show the *identical* invention "*in as complete detail as contained in the ... claim*" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). Accordingly, Appellants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

With respect to the rejection of independent claims 1, 9, and 17 under Section 102 based on the Douglas reference, the rejection of claim 1 is exemplary. In the rejection the Examiner stated:

> Regarding claim 1, Douglas meets the claimed limitations as follows:
> "A remote server management controller, comprising:
> a web server adapted to engage in encrypted communication over a first communication link (see column 3, lines 41-44; column 4, lines 20-28 and Figure 4, elements 43 and 46),
> the web server being further adapted to receive and respond to a request for secret data from a client computer over the first communication link (see column 3, lines 51-54; column 4, lines 28-33 and Figure 4, elements 43 and 46),
> the secret data being adapted to encrypt a second secure communication link (see column 3, lines 56-59); and
> a remote console server adapted for operable communication with the web server, the remote console server being further adapted to engage in communication with the client computer over the second communication link wherein the remote console server receives the secret data from the web server and uses the secret data to encrypt communication sent over the second communication link." see column 3, lines 54-65.
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> Office Action, pp 2, 3.

In the present case, the Douglas reference does not anticipate the Applicant's claims under Section 102 because every element of the claimed invention is not identically shown in Douglas. Specifically, independent claims 1 recites a web server that is adapted to "respond to a request for encryption data by providing *a public key* in the form of *a digital certificate*," and "use the *public key* contained in the digital certificate to encrypt communication over a second communication link." (Emphasis added). Similarly, independent claim 9 recites a client computer adapted to "receive a *public key* in the form of a digital certificate across a first communication link," and "use the *public key* contained

in the *digital certificate* to encrypt communication over a second communication link." (Emphasis added). Further, independent claim 17 recites the acts of "transmitting encryption data by providing a *public key* in the form of a digital certificate...across the first communication link," and "using the *public key* contained in the *digital certificate* to encrypt communications sent via the second communication link." (Emphasis added). Accordingly, in a response to a request for encryption data the web server within the remote server management controller provides a public key in the form of a digital certificate over a first communication link. The public key is used to encrypt communication over a second communication link.

In contrast, the Douglas reference discloses:

> ...the server 40 responds to the request and causes a manager on the server to generate a key from a random number source and a set (or table) of encryption information identified by a session token. The server then sends back the requested program, the generated encryption information, and the token over the secured channel 43, where the encryption information and token is to be used as parameters for the program.
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> Douglas, col. 4, lines 29-36.

Hence, the Douglas reference fails to disclose a web server responding to a request for encryption data by providing a *public key* in the form of a digital certificate. (Emphasis added).

Further, the Douglas reference states:

> The manager also maintains the token and the set of encryption information on the server for later communication with the client to establish a secured communication channel.
>
> Douglas, col. 4, lines 53-55.

Hence, the Douglas reference fails to mention a console server that receives a digital certificate containing a public key from a web server over a first communication link. Consequently, the Douglas reference does not teach a remote console server employing a public key as part of a digital certificate for encrypting communication over a second communication link.

For at least these reasons, the Applicant respectfully submits that independent claims 1, 9, and 17 (and the claims dependent thereon) are not anticipated by – nor would they have been suggested by – the Douglas reference. Accordingly, the Applicant respectfully requests the withdrawal of the rejection of independent claims 1-7, 9-15 and 17-20 under Section 102 based on the Douglas reference.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 8 and 16 under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 6,215,877 to Matsumoto ("the Matsumoto reference") in view of Applied Cryptography Protocols, Algorithms, and Source Code in C by Bruce Schneier ("the Schneier reference").

The Applicant respectfully traverses these rejections. The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a

prima facie case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

The Examiner rejected claims 8 and 16 under 35 U.S.C. § 103(a) as obvious over the Douglas and the Matsumoto reference in view of the Schneier reference. The Applicant respectfully traverses these rejections. The Applicant respectfully submits that claims 8 and 16 are allowable based on their dependencies on independent claim 1, 9 and 17, because the Matsumoto and the Schneier references do not cure the deficiencies described above in regard to the Douglas reference. For at least these reasons, the Applicant respectfully asserts that the Examiner has clearly not established a *prima facie* case of obviousness with

regard to claims 8 and 16. Accordingly, the Applicant respectfully requests that the Examiner overturn the rejection and allow claims 8 and 16.

Conclusion

In view of the remarks set forth above, the Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of all pending claims 1-20. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed

Respectfully submitted,

Date: December 14, 2005

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